(1) (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.NO. 195 / **2003**

PETITIONER: - Kanhaiya Lal Pandey, Aged about 25 years, S/o Shri Lala Prasad Pandey, Panchayat Karmi,Gram Panchayat at Nipani, Tahsil Patan, District Durg,(C.G.).

V/s

RESPONDENTS : -

1. State of Chhattisgarh through the Secretary Panchayat Avem Gramin Vikas Vibhag, D.K.S.Bhawan Raipur, (C.G.).

2. The Collector, Durg, (C.G.).

3. Janpad Panchayat, Patan Through the Chief Executive Officer, District Durg, (C.G.).

4.Gram Panchayat Nipani Through The Sarpanch Block Patan, District Durg, (C.G.).

5. Gram Sabha through Sarpanch gram Panchayat Nipani, Block Patan District Durg, (C.G.).

P.R. No. 19/03
Presented by Shri Ashutosh Singh
dated 10.01.03

शपथ आयुक्त
एस.के. झुंझुना
बिलासपुर (म.प्र.)
बिलासपुर तहसील कोर्ट
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(2) (4)

WRIT PETITION UNDER ARTICAL 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS/CERTIORARI ETC. OR DIRECTION / ORDER IN THE LIKE NATURE ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 195/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15-9-2004 Shri Rajesh Pandey, counsel for the petitioner. Shri Sanjay S. Agrawal, Govt. Advocate for the State/ respondents No.1 and 2. None for respondent No.3. Heard both the counsel. The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India, questioning the legality, propriety and correctness of the order dated 31.10.2002 passed by the Collector based on the resolution passed by the Gram Sabha on 5.10.2002. The case of the petitioner is that he was working as Panchayat Karmi in the Gram Panchayat: Nipani since 7.6.1996 and without following the procedure as envisaged in the Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (hereinafter referred to as 'the Rules, 1999'), the petitioner was removed from the post of Panchayat Karmi vide order dated 31.10.2002 passed by the Collector based on the resolution of the Gram Sabha dated 5.10.2002. Return has been filed on behalf of respondents No.1 & 2/State and also on behalf of respondent No.3. It is an admitted position that the petitioner, who was working as Panchayat Karmi, was removed by the impugned order dated 31.10.2002 passed by respondent No.2 based on the Gram Sabha resolution dated 5.10.2002, whereas for removing any Panchayat Karmi respondents are required to conduct an enquiry under the Rules, 1999. Sub-rule (1) of Rule 7 says that *"No order, imposing on a member of the Panchayat Service, any of the penalties specified in clause (iv) to (via) of rule 5*	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided."

Sub-rule (2) of Rule 7 envisages that

"When an order for formal inquiry has been made, the disciplinary authority shall frame Definite charges on the basis of allegations and shall communicate such charges, along with the statement of the allegations, to the member of the Panchayat Service and also require him to submit, within such time as may be specified a written statement of defence and also to state whether he desires to be heard in person."

Sub-Rules (3), (4), (5), (6), (7), (8), (9), (10) and (11) of Rule 7 further prescribe the procedure to be followed before imposing any major penalty specified in clause (iv) to (via).

It is also an admitted position that no enquiry was conducted against the petitioner before removing him from the post of Panchayat Karmi as per Rule 7 of the Rules, 1999. Therefore, on this ground, the impugned order dated 31.10.2002 passed by the Collector is liable to be quashed.

In the circumstances, the impugned order is quashed. However, it is made clear that the respondents are not precluded from conducting fresh enquiry on the misconduct of the petitioner.

With the above observations and direction, the petition stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

Barve/Soma

[पीछे देखिये

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